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8 **UNITED STATES DISTRICT COURT**
9 **SOUTHERN DISTRICT OF CALIFORNIA**
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11 MANUEL TAMAYO TORRES, Jr.,
12 CDCR #V-12118,

13 Plaintiff,

14 vs.
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17 MIKE EVANS, Warden, et al.,

18 Defendants.
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Civil No. 08-0990 IEG (AJB)

ORDER:

(1) **DISMISSING CIVIL ACTION
AS DUPLICATIVE PURSUANT TO
28 U.S.C. § 1915A(b)(1); and**

(2) **DENYING MOTION TO PROCEED
IN FORMA PAUPERIS AS MOOT
[Doc. No. 2]**

22 Plaintiff, a state inmate currently incarcerated at Salinas Valley State Prison located in
23 Soledad, California and proceeding pro se, has filed a civil rights Complaint pursuant to 42
24 U.S.C. §1983. Plaintiff has not prepaid the \$350 filing fee mandated by 28 U.S.C. § 1914(a);
25 instead, he has filed a Motion to Proceed *In Forma Pauperis* (“IFP”) pursuant to 28 U.S.C.
26 § 1915(a) [Doc. No 2].

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1 **I. Sua Sponte Screening Pursuant to 28 U.S.C. § 1915A(b)**

2 The Prison Litigation Reform Act (“PLRA”), 28 U.S.C. § 1915A, obligates the Court to
 3 review complaints filed by anyone “incarcerated or detained in any facility who is accused of,
 4 sentenced for, or adjudicated delinquent for, violations of criminal law or the terms or conditions
 5 of parole, probation, pretrial release, or diversionary program,” “as soon as practicable after
 6 docketing” and regardless of whether the prisoner prepays filing fees or moves to proceed IFP.
 7 See 28 U.S.C. § 1915A(a), (c). The Court must sua sponte dismiss prisoner complaints, or any
 8 portions thereof, which are frivolous, malicious, or fail to state a claim upon which relief may
 9 be granted. 28 U.S.C. § 1915A(b); *Resnick v. Hayes*, 213 F.3d 443, 446-47 (9th Cir. 2000).

10 Plaintiff’s instant Complaint is subject to sua sponte dismissal pursuant to 28 U.S.C.
 11 § 1915A(b)(1) because it appears to be duplicative of a case Plaintiff is already litigating.
 12 Plaintiff’s Complaint contains identical claims that are found in *Torres v. Evans, et al.*, S.D. Cal.
 13 Civil Case No. 08cv0761 BEN (NLS). A court “may take notice of proceedings in other courts,
 14 both within and without the federal judicial system, if those proceedings have a direct relation
 15 to matters at issue.” *United States ex rel. Robinson Rancheria Citizens Council v. Borneo, Inc.*,
 16 971 F.2d 244, 248 (9th Cir. 1992).

17 A prisoner’s complaint is considered frivolous under 28 U.S.C. § 1915A(b)(1) if it
 18 “merely repeats pending or previously litigated claims.” *Cato v. United States*, 70 F.3d 1103,
 19 1105 n.2 (9th Cir. 1995) (construing former 28 U.S.C. § 1915(d)) (citations and internal
 20 quotations omitted). Because Plaintiff is already litigating the same claims presented in the
 21 instant action in *Torres v. Evans, et al.*, S.D. Cal. Civil Case No. 08cv0761 BEN (NLS), the
 22 Court hereby **DISMISSES** Civil Case No. 08cv0990 IEG (AJB) pursuant to 28 U.S.C.
 23 § 1915A(b)(1). See *Cato*, 70 F.3d at 1105 n.2; *Resnick*, 213 F.3d at 446 n.1.

24 **II. Conclusion and Order**

25 Good cause appearing, **IT IS HEREBY ORDERED** that:

26 (1) Plaintiff’s Complaint in Civil Case No. 08cv0990 IEG (AJB) is **DISMISSED** as
 27 frivolous pursuant to 28 U.S.C. § 1915A(b)(1).

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1 **IT IS FURTHER ORDERED** that:

2 (2) Plaintiff's Motion to Proceed IFP [Doc. No. 2] is **DENIED** as moot.

3 The Clerk shall close the file.

4 **IT IS SO ORDERED.**

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6 **DATED: June 20, 2008**

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8 **IRMA E. GONZALEZ**, Chief Judge
9 **United States District Court**

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